



10545 Armstrong Avenue

Mather, CA 95655

Tele: [916] 876-6000

Fax: [916] 876-6160

Website: www.srcsd.com

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September 2, 2008

Phil Isenberg, Chair
Delta Vision Blue Ribbon Task Force
650 Capitol Mall
Sacramento, CA 95814

Re: Comments on Third Staff Draft Report, Delta Vision Strategic Plan

Dear Chairman Isenberg:

The Sacramento Regional County Sanitation District (District) appreciates the opportunity to offer comments on the August 14, 2008 Delta Vision Strategic Plan, Third Staff Draft Report (Strategic Plan). As stakeholders and environmental stewards, the District is actively involved in the protection of the Delta ecosystem and water supplies derived from the Delta and support the goal of the Delta Vision to ensure the long-term sustainability of the Delta and its ecosystem.

As you are aware, SRCSD has provided detailed comments on the previous two versions of the Strategic Plan and is providing additional comments on this third draft. First off, we would like to commend the Task Force and Delta Vision staff on their work efforts. This version of the Strategic Plan is a vast improvement over the previous two versions. The revised structure and broader approach makes the document easier to read and will help focus the discussion on policy principles, rather than "diving into the weeds" and technical details, which will take place as specific implementation plans are developed in the future. We are structuring this comment letter in two parts - SRCSD's main concerns are highlighted below and our detailed comments are provided as an attachment.

SRCSD Key Concerns

SRCSD recognizes the Delta is in peril and solutions must be implemented to protect its ecosystem and ensure its sustainability. Over the last several months SRCSD has focused its comments on five key concerns that must be addressed as solutions are developed to protect the Delta.

- **Stakeholder Involvement and Governance** - All processes must provide greater involvement of In-Delta Central Valley Stakeholders, *including clean water agencies* such as SRCSD. Any new governance structure should not supersede the authority of the State and Regional Water Boards.

- **Costs Must Be Allocated in Direct Proportion to Benefits Received** - Any solutions related to Delta water supply and reliability must not re-direct impacts and related costs to the Sacramento Region or upstream water users.
- **Objective Scientific Approaches to Identify Relevant and Cost Effective Solutions** - Strategies to protect the ecosystem must result in measureable benefits, and scientific linkages between "cause-and-effect" hypotheses must be sufficiently demonstrated.
- **Ecosystem Health and Water Quality** – SRCSD believes that any changes to the operation or structure of the Delta must be carefully evaluated to ensure that the goals of attaining a healthy ecosystem and providing a reliable water supply are actually equal and result in the ecosystem that is desired.
- **Performance Measures** – It is important to include narrative performance measures so progress can be measured and strategies modified, as necessary. However, the strategic plan must not include numeric targets, as the science and studies should be done first. The Strategic Plan should focus on outcomes with a narrative objective for the performance measure.

Stakeholder Involvement and Governance

There are multiple efforts moving forward concurrently related to finding solutions to address the conditions that are confronting the Delta (Delta Vision, Bay Delta Conservation Plan (BDCP), Interagency Ecological Program (IEP), State Water Resources Control Board and Central Valley and San Francisco Bay Regional Water Quality Control Boards Bay Delta Strategic Plan). It is vital that these activities be coordinated to avoid duplication or conflicting recommendations. Central Valley stakeholders are under-represented in the Delta Vision, BDCP and IEP processes, which appears instead to be dominated by water supply interests. These processes must be modified to provide for Central Valley stakeholder input, including municipal wastewater interests. In addition, any new governance structure, such as the California Delta Ecosystem and Water Council, the Public Advisory Group and the Science and Engineering Board must provide wastewater representation. The residents, businesses and municipalities of the Central Valley, and the Delta in particular, care deeply about the health of the Delta ecosystem and stand ready to do their part to protect this valuable resource.

Another key concern SRCDS has is with the CDEW Council and their proposed legal authority and responsibility for establishing water quality objectives that support beneficial uses of the Delta waters – authority currently devolved upon the State Board and Central Valley Regional Board. SRCSD would strenuously object to any effort to create a new governmental agency or "council" with superior or even appellate review authority over the water quality functions of the State and Regional Boards. Such an effort would result in inconsistent water quality standards, be confusing to the regulated and other interested parties in water quality issues, and would require the creation of a huge new bureaucracy to perform the functions now performed by the State and Regional Boards.

Costs Must Be Allocated in Direct Proportion to Benefits Received

SRCSD has long been committed to protecting the Central Valley environment and will implement appropriate measures that are objectively determined to be necessary to provide reasonable protection of the Delta's beneficial uses. However, premature demands that municipal wastewater agencies

install additional treatment facilities to address *speculative* impacts are imprudent and inequitable to SRCSD ratepayers and will divert limited resources away from other needs. SRCSD has a fiduciary obligation to its rate payers to exercise fiscal restraint and to justify financial decisions of such magnitude. Costs for unwarranted additional treatment facilities could more than triple sewer rates.

The District supports the “Beneficiary Pays” cost sharing principle where those who benefit from an action pay for the action in direct proportion to the benefit they receive. The District does not believe that the District’s rate payers should pay for upgrades to our treatment processes that are not required to provide reasonable protection of human health and the environment, as determined under the laws and regulations set forth in the Clean Water Act and the California Water Code. The District strongly believes that if any solutions for the Delta water supply reliability were to result in the requirement of additional treatment costs over and above those required under the existing regulatory framework, then those related costs to the Sacramento Region or upstream water users should be paid by those parties that would benefit from that solution. Specifically, any planning, design and construction of advanced treatment facilities for upstream wastewater dischargers that are required as a result of relocating the Delta’s water intake facilities should be paid for by those who benefit from that action. Strategy 17, of the Strategic Plan contains a proposed strategy for moving through a funding process that clearly lays a foundation for an equitable proportional cost allocation for any solutions for the Delta. Sound science implemented through existing regulatory processes, rather than public perception and political pressure, should determine the funding apportionment for additional treatment by upstream point source discharges.

Objective Scientific Approaches to Identify Relevant and Cost Effective Solutions

SRCSD supports projects that will produce clear benefits to the Delta based on the best available scientific information and understanding. SRCSD has been studying the effect of its discharge on water quality and beneficial uses in the Sacramento River and Delta for nearly 20 years - proactively and extensively, using some of the best mathematical modeling tools and water quality monitoring techniques available. To date, none of the detailed studies have indicated the need for advanced treatment. Moreover, SRCSD is in compliance with its NPDES permit and with existing water quality objectives.

SRCSD believes Delta solutions must be based on objective scientific approaches that identify relevant and cost-effective solutions. Strategies to protect the ecosystem must result in measureable benefits, and scientific linkages between “cause-and-effect” hypotheses must be sufficiently demonstrated and be “vetted” through an open and transparent peer review process. However, statements are being made in public forums and in various documents that are misleading and inaccurate, which in turn, may be driving policy decisions that could cost billions of dollars and still not improve water quality. For instance, several issues have been raised regarding ammonia impacts to the Delta ecosystem, however, none of these hypotheses have been confirmed.

SRCSD supports further research to address water quality concerns and is currently working with the Central Valley Regional Water Quality Control Board (Regional Water Board) on two ammonia related studies to examine the validity of concerns recently raised by Department of Water Resources (DWR) researchers regarding ammonia impacts on Delta fisheries. Preliminary results of ammonia toxicity studies performed in summer 2008 indicate that Delta smelt **are not** adversely impacted by ammonia levels downstream from the SRCSD’s discharge. These results substantiate that USEPA’s

chronic and acute aquatic criteria are protective of aquatic organisms, the basis of regulation to date by the Central Valley Regional Water Board. The District is participating in another study in 2008 and 2009 to address possible ammonia impacts to the Delta food web. Results from that screening level study will address whether that hypothesis merits further research. Currently there is no definitive information or analysis suggesting that advanced treatment by the District would create any measurable benefits in the Delta. There is, however, more definitive information regarding the impacts of invasive species and Delta diversions on the Delta ecosystem. The Delta Vision process should respond proportionately to known ecosystem stressors in addressing Delta problems by prioritizing the timing and magnitude of response measures to known, rather than suspected stressors.

Ecosystem Health and Water Quality

SRCSO and other municipalities in the Central Valley are leaders in protecting water quality through pollution control and in seeking holistic watershed solutions to contribute to a sustainable Delta. Proposed water supply projects that will re-plumb the Delta and further manage this system must, first and foremost, restore and protect the Delta ecosystem.

Performance Measures

SRCSO recognizes the importance of including performance measures and the need to adaptively manage strategies as new information is obtained. However, it is important that the Delta Vision Strategic Plan maintain a "higher level" perspective and limit water quality based performance measures to narrative outcome based statements. The strategic plan must not include numeric targets that have not been properly vetted using the available legal and scientific framework provided under the California Water Code.

SRCSO notes with interest that the Strategic Plan endorses the notion of 'relocating intake facilities or modifying the flow of water within the Delta' as a means to improve drinking water and agricultural export supplies while reducing ecosystem impacts. Further, the Third Version of the Strategic Plan seems to endorse a proposal to relocate the South Delta intake pumps further up the Sacramento River, near Hood. As such, SRCSO reasonably concludes that - - and thereby bases the attached detailed comments on the presumption that the Delta Vision Task Force will ultimately recommend the construction of this 'alternative conveyance facility'.

We hope the Task Force will consider the above comments as they continue developing the Delta Strategic Plan. As always, the District stands ready to participate in the process to investigate and find solutions for the Delta. We encourage you to help establish an open process that we and other stakeholders can participate in and add value to the process.

Sincerely,



Wendell Kido
District Manager

cc: Delta Vision Blue Ribbon Task Force Members
Delta Vision Committee Members
State Water Resources Control Board Members
Central Valley Regional Water Quality Control Board Members
Lester Snow, Department of Water Resources
Debbie Webster, Executive Officer, Central Valley Clean Water Agencies
Mary K. Snyder, District Engineer, SRCSD
Terrie Mitchell, Legislative and Regulatory Affairs Manager, SRCSD
Stan Dean, Plant Manager, SRCSD

ATTACHMENT - SRCSD's DETAILED COMMENTS

Pertaining to the Third Staff Draft Delta Vision Strategic Plan Dated August 14, 2008

To assist staff we are providing the following detailed comments with specific suggested language changes, in some cases, to help qualify general statements or correct inaccurate statements. We hope you find these comments helpful, as they are meant to improve upon the hard work of all Delta Vision participants.

Delta Vision Context

Comment 1: The "Delta Vision Context" provides a good background for development of the Strategic Plan. The eighth bullet under "Intensifying Conflicts in the Delta" (p. 6) has a sub-bullet related to a lawsuit SRCSD has been involved in for years, not just 2007-2008. Calling attention to the lawsuit, which is still not resolved, gives the appearance of importance of SRCSD's discharge to the Delta crisis that is not warranted. We recommend you remove the sub-bullet entirely.

Strategic Direction

Comment 2: Under "Restoring physical habitats" (p. 20), one of the five key characteristics of the envisioned ecosystem is a diverse mosaic of habitats and ecosystem processes, including seasonal floodplains. Current knowledge of mercury methylation and bioaccumulation processes indicates that seasonal floodplains produce high pulses of methylmercury that create significant methylmercury spikes in the tissues of resident small fish. The desired decrease in concentrations of methylmercury (see Table 2, p. 25), inherently conflicts with this desire for seasonal floodplains. Further, if the intent is to also achieve diversity, then a wide range of habitats that do not increase methylmercury will need to be investigated and propagated. This important research is necessary to ensure a diverse ecosystem and Delta fish with low methylmercury concentrations.

Comment 3: SRCSD would like to recommend the following language change under "Reducing stressors" (p. 21) as shown in strikeout/bold:

*The Delta watershed contributes a number of **potentially** harmful contaminants to Delta waters, ranging from mercury to pesticides to excessive nutrient loads. **These Regulation and control of contaminants in the Delta needs to be continued, and where necessary, improved** ~~better-controlled if we are to~~ **safeguard and** revitalize the Delta ecosystem and ~~to ensure that recreational uses of Delta waters can continue to thrive~~*

Comment 4: "Financing the Future" (p. 23, No. 3) still contains text which requires full compliance with all aspects of California resource laws and policies for access to state funding for any purpose related to implementation of the CDEW plan. Full compliance with all aspects is not a reasonable pre-condition to qualify for project funding. SRCSD recommends defining funding requirements other than in terms of "all" or "full" compliance, to recognize the reality of managing a utility in an increasing complex regulatory environment with numerous requirements and thousands of compliance monitoring events. SRCSD suggests a revision to the guidelines as follows:

*Access to state funding for any purpose related to the implementation of the CDEW Plan must be contingent upon a project contractor or a water right holder demonstrating full **substantial** compliance with ~~all aspects of~~ California resources laws and policies, including:*

If a facility has not had a violation or exceeded a standard for five years, and then has a violation of a permit limit or exceeds a standard are they no longer in full compliance? Would the facility be excluded from funding? The District has many years of experience striving to achieve full compliance, faced with increasingly complex permits and increasing regulatory standards and this strict requirement could exclude funding for a necessary project based on a subjective interpretation of what "full compliance" and "all aspects" mean. Even USEPA recognizes that full compliance is not necessary to adequately protect aquatic organisms from unacceptable effects of a given pollutant, at a specified concentration, within a specified timeframe.

SRCSD would like to see clarification of the intent of this principal, and a clear definition of project contractor to ensure that it includes other entities, specifically wastewater utilities, stormwater programs and entities performing wetland restoration.

Comment 5: Overall the performance measures have been changed in this draft of the staff report to a general level that is appropriate with a strategic planning level document. However there are some performance measures that remain too specific, with numeric targets that are unachievable, or lacking a strong scientific basis. Performance measures for a planning document should be written in a general sense, and mostly narrative, with future specificity to be developed as critical elements are further defined and the science supporting a numeric measure is confirmed. The bulleted items below are our specific comments on various performance measures, as listed in Table 2: "Report Card indicators and associated performance measures".

As a "Water Supply Reliability" "Performance Indicator" (p. 26) Percentage of time that ambient levels of 3 mg/L TOC and 50 µg/L are achieved at drinking water intakes (or other applicable standards, whichever are more stringent) (+) should be removed.

- The CALFED goals of 50 ug/L bromide and 3 mg/L TOC were based on projections of future Safe Drinking Water Act regulation which may never be realized and a Delta configuration that may be changing. Also, the goals were based on using conventional treatment and incorporating either enhanced coagulation or ozone disinfection to meet anticipated drinking water standards at the time the 2000 ROD was developed. Treatment technology has continued to advance since the targets were adopted in 2000. Some water supply agencies are already using the model treatment that was the basis for these targets. Treatment options are tailored to the source water quality composition experienced at different points in the system, not to a target set forth in the CalFED 2000 ROD.

Also recent analysis of the sources of organic carbon by USGS scientists has identified shallow tidal wetlands in the Delta as significant sources of organic carbon. A preliminary estimate is that restoration of 30,000 acres of such wetlands could seasonally increase the organic carbon concentration in water diverted at the southern Delta pumps by 0.5 mg/L. While increasing wetland habitat and organic carbon production are essential elements of ecosystem restoration, it must be recognized that ecosystem restoration goals are in conflict with these performance measures for TOC for drinking water quality. Therefore a better performance measure may be to have a preferred direction of a plus for advanced drinking water treatment at drinking water treatment plants

The Central Valley Drinking Water Policy Workgroup is assessing the impact of organic carbon levels on water treatment plant design and operation and is evaluating the need for development of water quality objectives for organic carbon through the Basin Planning process.

- The "Net levels of salinity in major groundwater aquifers (-)" performance measure does not make sense for areas that have naturally occurring high salinity groundwaters. A better performance measure would be to measure a positive direction of areas with high salinity groundwater source waters finding alternative surface water supplies that are lower in salinity.
- The "Functional Habitat" Indicator, "Invasive Species, Algae, and Mercury" Topic, "Concentration of methylized [should be "methylated"]mercury in Delta water compared to 2008 baseline (-) indicates a decrease in concentration of "methylized" mercury in Delta water. SRCSD recommends using small biosentinel fish with high site fidelity (juvenile bass, Mississippi silversides, sculpin, et.al) as a better representation of the methylmercury production over time at any given location. Instantaneous methylmercury water column concentrations are known not to be sustained between sampling events, and do not necessarily represent the functionality of a given aquatic habitat. If water column methyl mercury concentration data is continued to be used, SRCSD also recommends a suggested baseline year that considers available data that has already been requested and collected by the Regional Water Board in 2005.

Strategy Descriptions

Strategy 2. Optimizing Regional Self-Sufficiency by Increasing the Diversity of Local and Regional Water Supply Portfolios, first bullet item, p. 36:

Comment 6: This bullet item states that "by 2015, local water agencies must double the current percent of urban effluent that is captured and reused..." The California statewide goal set in the state's Water Recycling Act of 1991 is to produce a total of 1,000,000 acre-feet per year (afy) of recycled water by the year 2010; while the current draft statewide recycled water policy (Draft Policy) calls for an increase of 200,000 afy by 2020 and by an additional 300,000 afy by 2030. The 50% increase called for in the Delta Vision SP (3rd draft) is well above the goals noted in the Draft Policy. Lack of funding, variable market demands, and cumbersome regulatory requirements, among other things, make it almost impossible to implement water recycling projects in a timely manner. In 2003, the State's Water Recycling Task Force 2030 identified the lack of adequate funding as one of the key impediments to the implementation of these projects. The water industry and the environmental community, as reflected in the Draft Policy, are jointly advocating for \$1 billion in state and federal funds over the next 5 years to meet the goals for the use of recycled water established in the Draft Policy.

SRCSD strongly supports more groundwater banking projects and wants recycled water to be considered a viable commodity for groundwater banking projects, but these types of projects have historically met with stiff resistance from both the public and regulatory agencies.

Strategy 5. Improve water quality for drinking water, agriculture, and the ecosystem, pgs 43-45:

Comment 7: The Draft report states that the first critical element of controlling contaminants at the source is:

By 2012, the SWRCB and CVRWQCB should develop water quality objectives for Central Valley rivers, tributaries, and the Delta for priority constituents (including nutrients, mercury, and selenium) that are fully protective of beneficial uses.

SRCSD objects to this language and recommends adding the following bolded language and removing the text with strikeouts:

*By 2012, the SWRCB and CVRWQCB should develop a **Drinking Water Policy** water quality objectives for Central Valley rivers, tributaries, and the Delta for priority constituents (including nutrients, mercury, ~~salts~~, selenium, and ~~total organic carbon~~) to ensure reasonable that are fully protective of beneficial uses.*

SRCSD recommends removing the performance measure listing numeric targets for TOC, bromide, and pathogens for the same reasons detailed in comment No. 5. Also as mentioned in comment No. 5 the "Net levels of salinity in major groundwater aquifers (-)" performance measure does not make sense for areas that have naturally occurring high salinity groundwaters. A better performance measure would be to measure a positive direction of areas with high salinity groundwater source waters finding alternative surface water supplies that are lower in salinity.

Strategy 7. Restore Delta flows and channels to reflect California climate patterns and support a healthy Delta estuary, p. 51:

Comment 8: The critical element of this strategy calls for the SWRCB mandate increased base flows and pulse flows especially for the San Joaquin river, to alleviate low dissolved oxygen and high contaminant build-up impacts on aquatic organisms, then references strategy 5 to say as source control is implemented there will be less need for increasing flows. There is no corresponding discussion in strategy 5 regarding flows to minimize impacts and that as source control is implemented that there will be a reduction in required flows. There is no scientific evidence or literature citation to prove that controlling sources will limit the need for reduced flows on the San Joaquin at anytime.

Strategy 8. Reduce or eliminate ecosystem stressors to below critical thresholds

Comment 9: One of the critical elements of this strategy states "By 2012, the CVRWQCB should develop and implement TMDL programs for areas upstream of the Delta to reduce the loads of organic and inorganic mercury entering the Delta from tributary watersheds. The mercury TMDL program for the Delta itself should continue." (p. 53)

The Mercury TMDL program for the Delta is not yet complete. Significant need for study goes far beyond Vision timelines. Actions, including projects in the Cache Creek Settling Basin (adjacent to the Yolo ByPass) and tributary watersheds would accelerate mercury load reductions to the Delta.

Another critical element under this strategy is for the SWRCB, USEPA, and Regional Water Board, develop comprehensive strategies to reduce contaminant load discharges at all point and non-point

discharges. SRCSD recommends the following strikeout/bold changes to the fourth sub-bullet under this critical element.

*Use of treatment wetland systems for contaminant removal at agricultural, municipal, and industrial point sources before discharge into the Delta waters and all tributary rivers and streams ~~may be~~ is an effective approach in ~~many~~ some instances. **Site specific evaluations would need to be completed as part of the regulatory process to establish the feasibility and effectiveness of constructed wetlands for contaminant removal.***

This concept was considered for SRCSD's discharge in the Bay Delta Conservation Plan coarse level evaluations for conservation measures and was determined to be infeasible. The Delta Vision should not pre-judge or in any way mandate such outcomes.

Strategy 10. Establish multi-purpose migratory corridors along selected Delta river channels, (p. 57).

Comment 10: the fourth bullet identified to minimize barriers to migratory success is restoring large areas of floodplain and intertidal habitats along and adjacent to these corridors. SRCSD's comment No. 2, regarding methylation of mercury also applies to this strategy.

Strategy 15. Create a new governance system to manage the co-equal values and other state interests in the Delta, (p. 72),

Comment 11: SRCSD believes the new governance system for managing the Delta, including creation of the Delta Ecosystem and Water Council (CDEW), should include member(s) that are knowledgeable and have scientific/environmental/engineering expertise in the Delta. We note, regrettably, that the Third Version of the Strategic Plan omits a previous recommendation that the Council's voting membership "should include legal, science and engineering, policy and governance expertise." The implication of this omission from the Third Version is that the make-up of the Council can - - perhaps "should" - - be anyone, with no relevant expertise in issues critical to the Delta's sustainability. We think this would be an unfortunate mistake, and would likely result in the CDEW Council becoming highly politicized to the detriment of the Delta.

Comment 12: The Third Version recommends that the CDEW Council have the responsibility and power to adopt a CDEW Plan for the Delta, pursuant to Strategy 16. (p. 73). One of the specific elements called for in the CDEW Plan is to "[e]stablish targets and management objectives for the Delta ecosystem incorporated any plan developed under species protection laws." (p. 84) A separate element called for in the Plan is to "[e]stablish targets and management objectives for water supply reliability for all users of water diverted upstream, within, and exported from the Delta." (p. 84)

It is unclear from these recommendations whether the Strategic Plan seeks to imbue the CDEW Council with the legal authority and responsibility for establishing water quality objectives that support beneficial uses of the Delta waters – authority currently devolved upon the State and Regional Water Boards. SRCSD would strenuously object to any effort to create a new governmental agency or "council" with superior or even appellate review authority over the water quality functions of the State and Regional Water Boards. Such an effort would result in inconsistent water quality standards, be confusing to the regulated and other interested parties in water quality

issues, and would require the creation of a huge new bureaucracy to perform the functions now performed by the State and Regional Boards.

Comment 13: The Third Version calls for the CDEW to have the right “[t]o delegate its authority to achieve the purposes of the CDEW Act to any public or non-profit entity...” (p. 74) A broad interpretation of this recommendation would allow the CDEW to delegate various policymaking and enforcement authority to non-state agencies or departments. SRCSD objects to such a delegation and questions whether it would be legal under applicable California or Federal laws.

Comment 14: The Third Version calls for the empanelment of a permanent Public Advisory Group to advise and make formal recommendations to the Council. (p. 74) We generally support this recommendation, but object to the recommendation limiting membership to this PAG to “water users, environmental groups, local Delta communities, agriculture, business, and environmental justice advocates.” Because a great deal of the Strategic Plan - - and presumably any future CDEW Plan that will be developed - - concerns water quality-related issues facing the Delta, it is crucial that the PAG also specifically include representatives from municipal agencies responsible for stormwater and wastewater treatment.

Comment 15: The Third Version recommends the creation of the “California Water Utility” which is to have extremely broad powers concerning operation and maintenance of the State Water Project, and ultimately, of the Central Valley Project currently managed by the Bureau of Reclamation. (p. 77).

Most striking about this recommendation is that the California Water Utility is envisioned to be a Joint Powers Authority or other legal entity formed by state water contractors. SRCSD questions the propriety (and legality) of placing operational control (indeed, effective *ownership*) of a public resource in the hands of a few special interests whose primary mission and purpose is to export more and more water from the Delta. While we generally support the creation of a Water Utility to operate and maintain the Projects, we believe a quasi-public agency or commission is the appropriate body to have the broad powers and responsibilities envisioned in the Strategic Plan.

Comment 16: The Third Version recommends strategies to ensure that environmental justice is adequately addressed in Delta decision-making processes, with which SRCSD generally concurs. The sixth and eighth bullet criteria listed to protect these interests (p. 80) should be expanded to include potential economic impacts to low-income communities and communities of color related to utility rates associated with wastewater collection and treatment. To the extent the “co-equal goals” result in relocating Water Project intake pumps further upstream on the Sacramento River near Hood (which the Third Version endorses at p. 43), there is likely to be increased pressure on the SRCSD’s treatment plant to modify or upgrade treatment processes, simply because they are located closer together. It is crucial that the interests of all SRCSD ratepayers – including low-income communities – be protected against having to pay for such plant modifications or upgrades. We recommend the following bolded revisions to the sixth and eighth bullets on p. 80:

- Changes in the cost of domestic water **and other utilities (e.g., sewer)** and the impact on affordability for low-income communities and communities of color.
- The potential existence of regressive fees and taxes **for utility services such as sewer and water.**

Strategy 16: New "Delta Ecosystem and Water Plan"

Comment 17: While SRCSD generally supports the concept and need for a coordinated and comprehensive "plan" for managing the fragile Delta ecosystem, it is concerned regarding the proposed approach. The general tenor and focus of specific elements for the CDEW Plan seems to contemplate that this eventual Plan will supplant (instead of *integrate*) the various existing plans and policies that address water quality, species protection, water supply and land use planning, just to name a few. It is critically important that any eventual CDEW Plan adopted be based upon, and build from, existing frameworks and efforts already completed by various local, state and federal agencies, as well as the legal standards and thresholds already in place. Many plans, policies and standards already adopted by state agencies are required to be approved by federal agencies, such as U.S. EPA, under their independent federal authority. Any changes to those policies and standards would also need to be re-approved by those federal oversight agencies. Going through this process without demonstrating a clear and compelling need and addressing existing legal constraints will waste time, resources, and initiative.

Comment 18: The Third Version calls on the CDEW Plan to "[e]stablish targets and management objectives for the Delta ecosystem incorporated any plan developed under species protection laws." (p. 84) It is unclear from this wording if the Council would establish new water quality standards, targets or other limits to be imposed *via* permits issued under the Federal Clean Water Act or the Porter-Cologne Act. To the extent this recommendation would have the Council create new, or revise existing, water quality standards adopted and being implemented by the Central Valley Regional Board and the State Water Resources Control Board, SRCSD strongly opposes that course. There is nothing in the Governance Section (Strategy 15) of the Strategic Plan which suggests that the CDEW Council would develop new or revised water quality standards commensurate with the approaches required of the State and Regional Boards, and nothing therefore which indicates that interested parties and the public will have a meaningful opportunity to appear and comment on proposed new or revised standards. Such action would fail to comply with Federal Clean Water Act requirements.

A separate element called for in the Plan is to "[e]stablish targets and management objectives for water supply reliability for all users of water diverted upstream, within, and exported from the Delta." (p. 84) To the extent this recommendation would have the Council, through the CDEW Plan, establish drinking water standards for water passing through, or diverted from, the Delta, SRCSD opposes it. There is nothing in the Strategic Plan which suggests that the CDEW Council would have the requisite technical expertise to establish drinking water standards. Moreover, the Department of Health Services and State and Regional Water Boards already serve these functions, and creating a new state agency to duplicate (or supplant) those functions would be ill-advised and waste taxpayers' money.

In general, SRCSD would not support any approach that would unilaterally replace the carefully drafted and formally approved standards and limits set forth in existing State and Regional Board plans and policies. These existing policies and plans have been developed - - and are periodically revised - - only after thorough review, public input, and deliberation by the State and Regional Boards. To ignore them in the process of developing the CDEW Plan would be inefficient, in some cases redundant, and would effectively denigrate the historical progress that has been made by these agencies.

Comment 19: The Third Version calls on the CDEW Plan to include provisions “for data collection, data management, monitoring, analysis and interpretation to support policy making and management decision making.” (p. 84) In general, SRCSD supports this concept, and strongly endorses that all governmental agency decisions be based on good, replicable data and sound, objective science. That said, we are uncertain if this recommendation is calling for the development of an entirely new data collection, monitoring and analysis program, if so, SRCSD would not support such a recommendation. SRCSD recommends that a regional monitoring program be developed that integrates the various data collection, management, monitoring and analysis efforts currently underway, and to identify and encourage supplemental efforts where gaps exist. This is consistent with the State and Regional Water Boards Strategic Workplan Element for a “Comprehensive Monitoring Program”.

Comment 20: The Third Version anticipates that, “[b]y 2010, SWRCB should begin modifying the State Water Resources Control Board’s (SWRCB) Water Quality Control Plans in light of CDEW Plan recommendations and actions.” (, p. 85; emphasis added) The phrasing of this element presumes that the Council’s CDEW Plan is superior to the policy-making and standard-setting authorities of the State and Regional Boards. There is nothing contained in the Strategic Plan that indicates the Council will be technically equipped to address the complex water quality and standard-setting issues undertaken by the State and Regional Boards, which is sufficient justification to oppose this recommendation. Moreover, and as noted previously, SRCSD cannot support any new regulatory paradigm that does not provide at least the same procedural due process rights as currently exist under the Federal Clean Water Act and the Porter-Cologne Water Quality Control Act.

Comment 21: The Third Version seeks to “remedy inconsistent actions by federal, state, or local agencies in the Delta with the CDEW Plan” by giving to the CDEW Council “the authority to issue cease-and-desist orders with specific authorization to seek injunctive relief.” (p. 86) Further, the CDEW Plan would allow “for citizen suits against agencies acting inconsistently with the CDEW Plan.” (p. 86)

SRCSD strongly opposes any proposal that would give the Council the authority to potentially bring enforcement actions against holders of NPDES and Waste Discharge Requirements permits issued by the Central Valley Regional Board. It is appropriate for NPDES- and WDR-related enforcement authority to remain with the Regional Board given their familiarity with the underlying permits, policies and standards to which the alleged violation relates.

SRCSD also strongly opposes any proposal that would enable so-called “citizen suits” to be brought against holders of permits issued by the Regional Board for allegedly “acting inconsistently with the CDEW Plan.” To the extent any enforcement actions are necessarily initiated against a permit holder, they should be brought by the Attorney General’s Office, acting in its capacity on behalf of the Council, alone.

Strategy 17. Finance the activities called for in the California Delta Ecosystem and Water (CDEW) Plan through user fees and other effective and transparent financing tools.

Comment 22: Strategy 17 in the Third Version of the Strategic Plan recommends that “Private beneficiaries should be assigned proportional shares of revenue obligations and of risks and liabilities, while the public of California is responsible for activities of a broader benefit.” (p. 87.)

SRCSD generally supports this recommendation for purposes of guiding the design of financing systems for projects and actions undertaken by the Council. However, by using the term "private beneficiaries," this recommendation suggests that public beneficiaries of these projects and actions (such as special districts and other local governmental entities that benefit from water transfers out of the Delta) should *not* be assigned proportional shares of revenue obligations, risks and liabilities. This recommendation needs to be revised to include the public beneficiaries as well, such as public water purveyors.

Comment 23: SRCSD supports the concept that broad, statewide benefits associated with any actions taken by the Council be paid for by the state generally. As a start, the state should pay for a robust data collection and scientific analytical effort to support any decisions that are to be made under the CDEW Plan. For too long, assumptions have been made regarding the impacts of various stressors to the Delta without adequate data or scientific analysis to justify those assumptions. If the state is serious about "fixing" the problems facing the Delta, the state must also recognize the need for more resources to assess the various perceived problems and to develop objective, sound scientific approaches to confirm and then address those problems.

Comment 24: The Third Version acknowledges that "[s]ubstantial capital investments and continuing support will be required to implement the recommendations of the Delta Vision." Specifically, Strategy 17 refers to various capital cost estimates related to constructing an "alternative conveyance" (also known as "The Peripheral Canal") to support continued out-of-Delta water exports. (p. 88) Although Strategy 17 makes no specific mention of possible alignment(s) of such an "alternative conveyance", Strategy 5 previously referred to relocating current Water Projects intake pumps further up the Sacramento River near Hood, and on this basis, SRCSD reasonably concludes that Delta Vision will recommend that any "alternative conveyance" be constructed to terminate near Hood.

SRCSD has no specific comments at this time associated with the various capital investment estimates provided in Strategy 17 for constructing so-called "alternative conveyance" facilities to more efficiently transfer water through the State Water Project, and to protect habitat of endangered and threatened species such as the Delta smelt. However, SRCSD maintains that it is crucial, when developing cost estimates for any such "alternative conveyance" facilities, that adequate consideration be given to the impacts of constructing those facilities in locations that could affect the current, legal operations of municipalities such as wastewater treatment facilities. SRCSD asserts that the costs of conveyance facilities are only part of the total costs that might be required to address the problems in the Delta. The Strategic Plan needs to clearly recognize the full range of costs to include treatment plant changes and/or upgrades and make sure that there are appropriate funding mechanisms.

If the Delta Vision Strategic Plan fails to include these costs in the "alternative conveyance" facilities estimates, then the Task Force must explain to the SRCSD ratepayers and citizens of the Sacramento Region why they should be required to pay for treatment plant changes and/or upgrades related to perpetuating the export of Delta water to far ends of the State.

Comment 25: The Third Version endorses the concept of the "beneficiary pays principle," (p. 88.) and the development of an "equitable financing system" to fund actions and projects undertaken pursuant to the CDEW. (p. 89) SRCSD strongly supports these concepts and, in particular, the recommendation to "require full allocation of costs and risks, in proportion to benefits received,"

(p. 89) and the need to "determine as practically as possible the benefits received by identified beneficiaries and the associated costs of the projects where applicable." (p. 90)

To this end, SRCSD wishes to note that construction of any "alternative conveyance" facilities to move the Water Projects' intake pumps near Hood would provide no benefits to the ratepayers of SRCSD, or the taxpayers of the Sacramento Region. However, constructing these "alternative conveyance" facilities may result in new and potentially more restrictive permit limits imposed at SRCSD's treatment plant - - limits which would otherwise not be imposed but for the construction of those facilities. If such new or more restrictive permit limits are imposed on SRCSD's treatment plant as a result of moving the Water Projects' intake pumps near Hood, and SRCSD's treatment plant requires any changes and/or upgrades, then the cost of these treatment plant changes and/or upgrades are appropriately to be included in the capital cost estimates to construct the underlying "alternative conveyance" facilities. None of these costs should appropriately be borne by the SRCSD ratepayers and taxpayers of the Sacramento Region.

In summary, the District hopes that the Delta Vision Task Force staff will consider the above comments as they continue developing the Delta Strategic Plan. As always, SRCSD stands ready to participate in the process to investigate and find solutions for the Delta. We encourage you to help establish an open process that we and other stakeholders can participate in and add value to the process.